

EXHIBIT B

#6724

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 HONORABLE JOHN W. HOLCOMB, DISTRICT JUDGE
4 ENTROPIC COMMUNICATIONS, LLC,)
5)
6 Plaintiff,)
7)
8 Vs.) No. LACV23-01043-JWH
9 DISH NETWORK CORPORATION, ET AL.;) LACV23-01050-JWH
10 COMCAST CORPORATION, ET AL.;) LACV23-01049-JWH
11 COX COMMUNICATIONS, INC., ET AL;) LACV23-01048-JWH
12)
13 Defendants.)
14)
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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS
17 MOTION HEARING AND SCHEDULING CONFERENCE
18 SANTA ANA, CALIFORNIA
19 WEDNESDAY, AUGUST 9, 2023
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UNITED STATES DISTRICT COURT

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UNITED STATES DISTRICT COURT

A P P E A R A N C E S

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1 SANTA ANA, CALIFORNIA; WEDNESDAY, AUGUST 9, 2023; 10:09 A.M.

2 ---

3 THE CLERK: Calling item number one, Entropic case
4 versus DISH Network, 23-01043.

5 Calling item number two, Entropic Communications
6 versus Cox Communications, Inc., et al. Case number
7 LACV-23-01047.

8 Calling item number three, Entropic Communications,
9 LLC, versus Comcast Corporation, et al. Case number
10 23-01048.

11 Calling item number four, Entropic Communications
12 versus Cox Communications, Inc., et al. Case number
13 23-01049.

14 Calling item number five, case number 23-01050,
15 Entropic Communications, LLC, versus Comcast Corporation,
16 et al.

17 Counsel, if you would please state your appearance
18 for the record, beginning with plaintiff.

19 MR. SHIMOTA: Jim Shimota appearing on behalf of
20 plaintiff Entropic, LLC.

21 MS. GOODRICH: Christina Goodrich from K&L Gates on
22 behalf of plaintiff Entropic, LLC. I'm joined today by my
23 colleagues Ken Bridges and Nick Lenning, Cassidy Young, and
24 Kelsi Robinson, all on behalf of plaintiff.

25 I know Your Honor may be asking who is arguing

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1 So for consistency purposes, I would just urge
2 that --
3 THE COURT: I understand.
4 MR. BRIDGES: -- you work on the disposition.
5 But this actually implicates the bigger issue,
6 Your Honor, of what exactly are you being asked to do.
7 You're only being asked to dismiss this case for lack of
8 subject matter jurisdiction. The parties, in the interest of
9 time --
10 THE COURT: In the tentative I'm not doing that.
11 MR. BRIDGES: In the tentative you're not, but what
12 I want to be clear about in the tentative is how Your Honor
13 gets there.
14 So what happens is that in the tentative Your Honor
15 pursues the path the parties have laid out for you in
16 briefing. The path that the parties laid out for you in
17 briefing is to do this by trying to interpret the VSA and try
18 to look at all of these complicated provisions.
19 But what happened, Your Honor -- if you have our
20 slide deck --
21 THE COURT: Yes.
22 MR. BRIDGES: -- I think it would be instructive to
23 turn to slide 13.
24 THE COURT: Hold on one second.
25 MR. BRIDGES: So apologies, Your Honor. Because of
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1 the fact we weren't sure about tentative, you will have two
2 slide decks for this motion because there were an awful lot
3 of slides. They are -- the numbers --
4 THE COURT: Hold on.
5 MR. BRIDGES: -- page numbers are consecutive.
6 THE COURT: Hold on. I'm not sure I have your
7 slide deck here. Entropic's --
8 MR. BRIDGES: It is titled, Your Honor, Entropic's
9 argument in opposition to Comcast's motion to dismiss. It
10 looks like this, Your Honor (indicating).
11 THE COURT: Okay. I have it.
12 MR. BRIDGES: So if you will go forward to slide
13 13, I just wanted to highlight something Comcast pointed
14 out --
15 THE COURT: I'm there.
16 MR. BRIDGES: -- in reply. So Comcast says, well,
17 you're only relying on declaratory judgment cases. They're
18 inapplicable. They're declaratory judgment. And this got us
19 to asking the question, well, wait a minute. What cases is
20 Comcast citing in its briefing for the proposition that a
21 covenant can possibly deprive the Court of subject matter
22 jurisdiction?
23 And the answer is all of those are DJ cases. The
24 reason, Your Honor, is because it turns out that in a case
25 where the patent owner maintains a case for infringement, the
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1 subject matter jurisdiction question is done. There's
2 nothing more to do.
3 There is a case or controversy because there is a
4 case or controversy. The Federal Circuit has actually
5 decided this issue in a line of cases which we discovered in
6 preparing for oral argument, and we sent these over to
7 Comcast last night when we recognized the importance of this.
8 I mean, obviously the Court wants to get it right
9 exactly, in particular for subject matter jurisdiction. So
10 if Your Honor will take a look at slide 14, this is the
11 implication.
12 The analysis of case or controversy which the
13 parties have spent a lot of time fighting about actually
14 doesn't in this case need to turn on the VSA at all because
15 it is so simplified, it's automatic.
16 As a matter of law where there is a properly pled
17 complaint for patent infringement, meaning we asked for
18 relief under the Patent Act, whatever covenants or licenses
19 may exist, Your Honor, those are defenses.
20 Your Honor has jurisdiction over claims, not
21 issues. The claim that Your Honor has jurisdiction over is a
22 patent infringement claim. That's federal question. No one
23 doubts it. Your Honor's jurisdiction. End of story. And
24 that is what Air Products says.
25 THE COURT: Let's take a hypothetical where
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1 plaintiff purported patentee sues alleged infringer, like a
2 one patent that has one claim in it, to make it simple. When
3 one assigns a patent, one has to assign the right to not
4 merely the patent but the right to sue for infringement.
5 So let's say that the plaintiff was assigned the
6 patent but didn't have an express assignment of the right to
7 sue for infringement. The defense that the defendant usually
8 raises in those circumstances is a 12(b)(1) type standing
9 defense.
10 MR. BRIDGES: Uh-huh, but that's not what's being
11 raised here, Your Honor. That's not what King
12 Pharmaceuticals and those cases are about. The question
13 isn't standing. The question is whether there's a case or
14 controversy that the Court can hear.
15 All of those cases like King Pharmaceuticals, the
16 question there is the patent owner doesn't want a case. The
17 patent owner either never brought a patent infringement case
18 or brought one and then changed its mind.
19 Then in those cases what's happening is that the
20 patent owner is saying we don't want any invalidity or
21 non-infringement counterclaims to have to face. So here's
22 what we'll do. We'll provide you a covenant or a license and
23 represent to the Court that we are never going to sue you for
24 patent infringement.
25 That has the effect of removing reasonable
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1 comes.

2 MR. SHARTZER: Right. Thank you.

3 THE COURT: Okay. Anything else?

4 All right. Counsel, thank you very much. Special

5 Master, thank you very much. I'll see some of you on

6 September 8th, and I look forward to receiving all the

7 documents that we talked about you filing with me.

8 Thank you.

9 (Proceedings concluded at 1:02 p.m.)

10 CERTIFICATE

11 I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT

12 TRANSCRIPT OF THE STENOGRAPHICALLY RECORDED PROCEEDINGS IN

13 THE ABOVE MATTER.

14 FEES CHARGED FOR THIS TRANSCRIPT, LESS ANY CIRCUIT FEE

15 REDUCTION AND/OR DEPOSIT, ARE IN CONFORMANCE WITH THE

16 REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

17

18 /s/ Miriam V. Baird 08/17/2023

19 MIRIAM V. BAIRD DATE

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